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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,607	02/23/2004	Elise Tordella	1810K (US) / TYCV 1810	8323
54964 7590 01/04/2010 TYCO HEALTHCARE - EDWARD S. JARMOLOWICZ 15 HAMPSHIRE STREET MANSFIELD, MA 02048				
EXAMINER				
DEMILLE, DANTON D				
ART UNIT		PAPER NUMBER		
3771				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/784,607

Applicant(s)

TORDELLA ET AL.

Examiner

Danton DeMille

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-20, 22, 24-26 and 28-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-20, 22, 24-26 and 28-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/23/09
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

Claims 1, 3-14, 18-20, 22, 24-26, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dye (US 5,795,312) in view of Arkans (US 6,358,219).

Dye teaches a compression apparatus for carrying out sequential compression vascular therapy on a limb of a patient comprising a sleeve 10 including a first portion defining a first expandable chamber for the thigh of the leg having sub-chambers 38e, 38f and a second portion, which is the rest of the sleeve, defining a second expandable chamber having sub-chambers 38c, 38d and a third expandable chamber having sub-chambers 38a, 38b. The second portion includes a connector 48 fluidly connecting a pressurized fluid source to the first, second and third expandable chambers. The only difference between the claimed invention and Dye is whether or not the first portion of the sleeve can be completely be removed from the second portion.

Arkans teaches a compression apparatus for carrying out sequential compression vascular therapy on a limb of a patient comprising a first portion 34 and a second portion that can be completely removed from each other by cutting the strap 38 between the two, column 6, lines 60-62. The tubular pathways to the expandable chambers use conventional quick disconnect coupling in order to disconnect the tubular pathways. Sometimes it is necessary to remove portions of the sleeve from a particular region of the patient's body due to sensitivity or trauma. While Arkans teaches that the different portions can be cut away, there appears to be no unobviousness to exactly how that is done. Other conventional ways of removing the different portions would be obvious such as tearing with the aid of kerfs, serrations or perforation or by snap connectors, zippers or hook and loop material. These means to separate two portions of

material from each other are well known and have well known characteristics. It would have been obvious to one of ordinary skill in the art to modify Dye to completely remove the first portion from the second portion as taught by Arkans using perforations as opposed to cutting as an obvious equivalent means for performing the same function.

Regarding claims 18-20, 25, 26, the method of providing and using the Dye sleeve is taught by Dye and the step of completely removing a portion of the sleeve leaving the rest of the sleeve as taught by Arkans appears to be merely combining old and well known methods of treatment. Given the fact that the method of performing sequential compression on a limb using all of a thigh, calf and ankle sleeve is well known and the method of converting the sleeve by completely removing a portion of the sleeve and using only the remaining portion of the sleeve is also well known, it would appear to be obvious to combine old and well known methods together. Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). *Ex Parte Smith*, 83 USPQ2d at 1518-19 (BPAI, 2007) (citing *KSR*, 127 S.Ct. at 1740, 82 USPQ2d at 1396).

Claims 15-17, 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Arkans (US 6,062,244).

Arkans '244 also teaches a quick disconnect valve connector so that upon disconnection of a downstream tubular pathway, the tubular pathway is shut off so that the upstream sleeve can maintain pressure. It would have been obvious to one of ordinary skill in the art to further

modify Dye to include a valve connector as taught by Arkans '244 to complete the details of closing off the tubular pathway when removing different portions and maintain proper pressure within the remaining portion.

Regarding claim 32, since the thinner portion of the sleeve connecting the first thigh portion of the rest of the device is where the sleeve portions would be separated, it would contain the perforations. With the perforations being located in the thinner portion of the sleeve would be where the knee is located, the first tubing would extend over the perforations and at one side of the knee opening 16.

Regarding claim 33, while Dye teaches the first and second tubing is covered under a portion of the ankle portion of the sleeve, there appears to be no unobviousness to having the tubes not covered by the sleeve so that they are exposed for easier access for when it is necessary to remove the first tube when the first thigh portion is not being used as is taught by Arkans '219. Arkans '219 does not provide any covering for the tubes leading to different portions of the sleeve. They would all be exposed. Such is well known and an obvious provision.

Response to Arguments

Applicant's arguments with respect to claims 1, 3-20, 22, 24-26, 28-33 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974. The examiner can normally be reached on M-F from 8:30 to 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu, can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

5 January 2010

/Danton DeMille/
Danton DeMille
Primary Examiner
Art Unit 3771